

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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| Case No. | CV19-01087-RGK (PLAx) | Date | March 26, 2019 |
| Title | <i>CMG WORLDWIDE, INC. v. DREAMS FULFILLED, LLC</i> | | |

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| Present: The Honorable | R. GARY KLAUSNER, U.S. DISTRICT JUDGE | | |
| Sharon L. Williams | Not Reported | | |
| Deputy Clerk | Court Reporter / Recorder | | |
| Attorneys Present for Plaintiffs: | Attorneys Present for Defendants: | | |
| Not Present | Not Present | | |

Proceedings: (IN CHAMBERS) Order Remanding Action to State Court

On January 2, 2019, CMG Worldwide Inc. (“Plaintiff”) filed a complaint against Dreams Fulfilled, Inc. (“Defendant”) for declaratory judgment that Plaintiff had fulfilled all the terms of a license agreement entered into between the parties.

On February 13, 2019, Defendant removed the action to this Court alleging jurisdiction on the ground of diversity jurisdiction.

Removal jurisdiction is governed by statute. *See* 28 U.S.C. §§ 1441, et seq. The Ninth Circuit has held unequivocally that the removal statute is construed strictly against removal. *Ethridge v. Harbor House Rest.*, 861 F.2d 1389, 1393 (9th Cir. 1988). The strong presumption against removal jurisdiction means that “the defendant always has the burden of establishing that removal is proper.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (*citing Nishimoto v. Federman-Bachrach & Assocs.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990)); *see also In re Ford Motor Co./Citibank (South Dakota), N.A.*, 264 F.3d 952, 957 (9th Cir. 2001) (“The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.”).

Pursuant to 28 U.S.C. § 1332, district courts shall have original jurisdiction over any civil action in which the parties are citizens of different states and the action involved an amount in controversy that exceeds \$75,000. After a plaintiff files a case in state court, the defendant attempting to remove the case to federal court bears the burden of proving the amount in controversy requirement has been met. *Lowdermilk v. United States Bank Nat’l Ass’n*, 479 F.3d 994, 998 (9th Cir. 2007). If the complaint does not allege that the amount in controversy has been met, the removing defendant must plausibly allege in its notice of removal that the amount in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553-54(2014). If the plaintiff contests, or the court questions, the defendant’s allegation, the defendant must establish that the jurisdictional requirement has been met by a preponderance of the evidence. *Guas v. Miles, Inc.*, 980 F.2d 564, 566–67 (9th Cir. 1992).

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Defendant argues that the amount in controversy requirement is satisfied because the value of the object of litigation exceeds \$75,000. Specifically Defendant states that Plaintiff's complaint alleges that Defendant notified it in writing that Defendant intended to pursue damages amounting to several hundred thousand dollars. (Notice of Removal, p.5, lines 1-5.) However, review of complaint and attached exhibits shows no factual support for this contention. Therefore, the Court finds that Defendant's assertion regarding the amount in controversy is based solely on speculation.

In light of the foregoing, the action is hereby **remanded** to state court for all further proceedings.

IT IS SO ORDERED.

Initials of Preparer

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